

PART 1950 - GENERAL

Subpart C - Servicing Accounts of Borrowers Entering the Armed Forces

§1950.101 Purpose.

Borrowers with accounts serviced by Rural Development or Farm Service Agency, herein referred to as the "Agency", who have entered or who are entering military service will require special treatment. This subpart prescribes the authorities, policies, and routines for servicing such cases in addition to those contained in other Rural Development regulations.

§1950.102 General.

(a) The Agency will do everything possible to assist borrowers entering the armed forces to adjust their affairs in contemplation of military service. It is not the policy of the Agency to renew, postpone, or modify annual installments due under a promissory note because of the borrower's entry into the armed services. However, under the Soldiers' and Sailors' Civil Relief Act of 1940, the property of the borrower in the armed forces cannot validly be seized or sold by foreclosure or otherwise during the borrower's tenure of service, or for three months thereafter, except (1) pursuant to an agreement entered into by the borrower after having been accepted for service, or (2) by order of the Court. Any person causing an invalid sale to be made is guilty of a misdemeanor. Regardless of the foregoing, the long-time interest of the borrower can best be served by prompt and satisfactory arrangements for the use and protection, or disposition, of the security property in accordance with the policies expressed herein. Upon request, OGC will inform the State Director with respect to relief which may be secured by a borrower under the Soldiers' and Sailors' Civil Relief Act of 1940.

(b) In connection with Multiple Housing Loans to individuals, references to County Supervisor and County Office in this subpart will be read as District Director and District Office.

§1950.103 Borrower owing Agency loans which are secured by chattels.

(a) Policy.

(1) Borrowers who owe loans other than Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm servicing buildings (RHF). When information is received that a borrower is entering the armed forces, the County

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Supervisor will be responsible for contacting the borrower immediately for the purpose of reaching an understanding concerning the actions to take in connection with the Agency loan indebtedness. The borrower will be permitted to retain the chattel security if arrangements can be worked out which are satisfactory to the borrower and the Agency. However, because of the nature of chattel security, the borrower will be informed of the usual depreciation of such property and will be encouraged to sell the property and apply the proceeds to the loan(s). In most cases, the interests of both the borrower and the Government can best be served by arranging for a voluntary sale of the security. A borrower retaining security will be expected to make payments on the loan(s) equal to the scheduled payments.

(2) Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST, and/or RHF loans. If the borrower is delinquent in accordance with Subpart S of Part 1951 of this chapter, or otherwise in default, the County Supervisor will send Exhibit A and the appropriate attachments, as outlined in Subpart S of Part 1951 of this chapter. The County Supervisor will follow the directions in Subpart A of Part 1962 of this chapter for liquidating chattel security. If the borrower is not delinquent, the County Supervisor will explain the options set out in paragraph (b) of this section.

(b) Method of Handling. In Carrying out the above policy, the cases of borrowers entering the armed forces will be handled in accordance with one of the following methods:

(1) Voluntary sale of security. This will be accomplished in accordance with §1962.41 of Subpart A of Part 1962 of this chapter. Any necessary forms will be signed:

(i) Before being accepted for service in the armed forces, if the sale is to be completed before the borrower is accepted for service, or

(ii) After being accepted for service, if the sale cannot be completed before the borrower is so accepted. For this purpose, an individual will be considered as accepted for service after being ordered to report for induction, or, if in the enlisted reserve, after being ordered to report for service in the armed forces.

(2) Assumption of indebtedness. This will be accomplished in accordance with §1962.34 of Subpart A of Part 1962 of this chapter.

(3) Arrangements with third persons. When the borrower arranges with a relative or other reliable person to maintain the security in a satisfactory manner and to make scheduled payments, the State Director is authorized to approve the arrangement. In such a case, the borrower will be required to execute a power of attorney prepared or approved by OGC, authorizing an attorney-in-fact to act for the borrower during the latter's absence.

(4) Possible legal actions. If the borrower fails or refuses to cooperate in the servicing of the loan indebtedness secured by chattels in accordance with one of the methods set forth in this section, the borrower's case folder will be forwarded to the State Director for referral to OGC for legal advice as to the steps to be taken in protecting the Government's interest.

(c) Statements of accounts and transfers. Borrowers entering the armed forces will be requested to designate mailing addresses for the delivery of statements of accounts. Any changes in these addresses will be processed on Form RD 450-10, "Advice of Borrower's Change of Address or Name," with appropriate explanations. Under this procedure, a statement of account may be mailed to a location other than where the account is maintained and serviced. This is a deviation from the established procedure. These cases will not be transferred unless the security, when retained by the borrower in accordance with paragraph (b)(3) of this section, is moved into another County Office territory. Then the transfer will be processed through the use of Form RD 450-5, "Application to Move Security Property and Verification of Address," and Form RD 450-10 with appropriate explanations. In cases when assumption agreements have been executed, statements of account will be mailed to the assuming borrower. Cases involving assumption agreements will be transferred when the assuming borrower moves from one County Office territory to another.

§1950.104 Borrower owing Agency loans which are secured by real estate.

County Supervisors, to the greatest extent possible, should keep themselves informed of the plans of borrowers with Agency loans secured by real estate who may enter the armed forces. They should encourage any borrower who is definitely entering the armed forces to consult with them before the borrower's military service begins concerning the most advantageous arrangements that can be made regarding the security. County Supervisors will assist these borrowers in working out mutually satisfactory arrangements. Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST, and/or RHF loans and who are delinquent or otherwise in default must be sent Exhibit A and the appropriate attachments, as outlined in Subpart S of Part 1951 of this chapter. The County Supervisor will follow the directions in Subpart A of Part 1965 of this chapter for liquidating real estate security. FO, SW, RL,

OL, EE, EM, SL, EO, ST, and/or RHF borrowers who are not delinquent will have their accounts handled as set out in the following paragraphs.

(a) Power of attorney. Borrowers entering the armed forces who retain ownership of the security should be encouraged to execute a power of attorney authorizing the person of their choice to take any actions necessary to insure proper use and maintenance of the security, payment of insurance and taxes, and repayment of the loan. No Agency employee will act as attorney-in-fact for a borrower. The State Director will consult with OGC concerning any limitations upon the use of a power of attorney under local law and the circumstances under which the power of attorney should be exercised. In general, either spouse may act as attorney-in-fact for the other spouse, but, in a few States, a spouse cannot exercise the power of attorney in connection with a sale or encumbrance of the homestead. In a majority of States, a power of attorney is revoked by the death of a person granting the power, but, in some States, the power of attorney executed by a person in the armed services remains valid until actual notice is received of the death of the person granting the power. A power of attorney should not be used in conveying title to the farm except in those States where the power is good until actual notice of death. The State Director will request OGC to prepare a satisfactory form of power of attorney which may be duplicated in the State Office and furnished to County Supervisors with a State supplement concerning its use.

(b) Borrower retains ownership of the security. When a borrower retains ownership of the security, the Agency will assist in making arrangements for the use of the security which will protect the interests of both the Government and the borrower.

(1) Leasing. It will be more satisfactory if the security is leased under a written lease in accordance with equitable leasing policies and applicable Agency procedures. The borrower should make arrangements for the rental income to be used for regular payments on the loan in order to avoid the accumulation of unpaid interest. The borrower also should make arrangements for the payment of taxes and insurance and maintenance of the security to avoid having these charges paid by the Government and then charged to the account. It would be desirable to provide that the lease will continue for the duration of the borrower's military service unless either party gives written notice of earlier cancellation of the lease.

(2) Operation by family. When a borrower wishes to have the farm occupied and operated by family members or relatives without a written lease, the County Supervisor should advise the borrower as to whether or not the proposed arrangements will be in the best

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interests of the borrower and the Government. When the farm is to be operated by relatives, the hazards and disadvantages to the borrower and the Government which are inherent in unwritten contracts will be discussed, and every effort will be made to induce the borrower to enter into formal contractual arrangements whenever possible to do so.

(c) Borrower does not retain ownership of the security. The security may be transferred to another approved applicant or sold in accordance with applicable procedures.

(d) Borrower abandons the security or fails to make satisfactory arrangements. This paragraph does not apply to borrowers with FO, SW, RL, OL, EE, EM, SL, EO, ST, and/or RHF loans. Those borrowers should be sent Exhibit A and the appropriate attachments as outlined in Subpart S of Part 1951 of this chapter. When a borrower abandons the security or fails to make satisfactory arrangements for maintenance of the security and payment of taxes, insurance, and installments on the loan, the County Supervisor will send a complete report on the case to the State Director. The report will include all the information that can be obtained regarding the borrower's plans for the security and any evidence to indicate that abandonment has, in fact, taken place. In these instances, it must be recognized that the borrower may have entered into verbal arrangements for the care of the security without properly advising the County Supervisor. Whether such cases may be construed to be in violation of the provisions of the mortgage, so as to support foreclosure by order of the Court under the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, will need to be determined on an individual case basis by the State Director and OGC. Clear-cut abandonment cases or instances in which the borrower fails to take action to transfer or sell the property, while evidencing no interest in it or desire to retain it, will be processed in accordance with applicable procedures.

(e) Statement of account. Borrowers entering the armed forces who retain ownership of the security will be requested to designate mailing addresses for the delivery of statements of accounts. Any changes in address will be processed on Form RD 450-10 with appropriate explanations.

§ 1950.105 Interest Rate.

(a) The Soldiers and Sailors Relief Act requires that the effective interest rate charged a borrower who enters active military duty after a loan is closed will not exceed 6 percent. This applies only to full-time active military duty and does not include military reserve status or National Guard participation.

(b) As soon as the County Supervisor verifies that a borrower is on active duty, the County Supervisor will send the borrower a letter which states that the interest rate on the borrower's loans will not exceed 6 percent. At the same time, the County Supervisor will send the Finance Office a memorandum which states that the borrower is on active duty and that interest of not more than 6 percent should accrue on the borrower's loans, effective as of the date of the memorandum or as of the date of the last payment, whichever is later, until further notice. If a borrower's interest on any loan is less than 6 percent, the loan will continue to accrue interest at the lower rate. The assistance under this section may not be retroactively applied.

(c) As soon as the County Supervisor verifies that a borrower is no longer on active duty, the County Supervisor will send the Finance Office a memorandum advising them to terminate the 6 percent interest rate. The rate will revert to the note rate (or the payment assistance rate), effective with the next scheduled payment. The 6 percent interest rate will not be cancelled retroactively. (Revised 10-27-95, SPECIAL PN.)

(d) Additional directions for handling Single Family Housing Loans are contained in 7 CFR part 3550. (Revised 01-23-03, SPECIAL PN.)

§§ 1950.106 - 1950.150 [Reserved]

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